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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

CURTIS FIREBAUGH,
an individual,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA,
BRAIN BERTOLINI, an individual,
TIM VEDDER, an individual,
and DOES I-X, inclusive,


Defendants.

Civil Action No.: 3:12-cv-00242-LRH-WGC
**ORDER GRANTING
SECOND EX PARTE MOTION
FOR EXTENSION OF TIME FOR
SERVICE OF SUMMONS**

Plaintiff, CURTIS FIREBAUGH, by and through his undersigned Counsel, STEVEN F. BUS, ESQ. of the Law Offices of Steven F. Bus, Ltd., hereby moves this Honorable Court for a second order to extend time for service of the Summons as to Defendant TIM VEDDER.

This Motion is made pursuant to Rule 4(m) of the Federal Rules of Civil Procedure and is based upon the Affidavit of Steven F. Bus, Esq. attached hereto, the Memorandum of Point and Authorities submitted herewith, and all the pleadings and papers on file herein.

DATED this 30th day of November, 2012.


STEVEN F. BUS, ESQ.
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Attorney for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

**I.
STATEMENT OF FACTS**

Plaintiff filed his Complaint on May 3, 2012. At the time the Complaint was filed, to the Plaintiff's knowledge, his former employer, Bertolini Trucking, Inc. was no longer in business. The individual Defendant, BRIAN BERTOLINI and TIM VEDDER were also formerly employed by Bertolini Trucking, Inc. Bertolini Trucking, Inc. had a principal place of business at one time in Marysville, California. Plaintiff then began to investigate the current whereabouts of both Defendants BRIAN BERTOLINI and TIM VEDDER. Plaintiff was unable to located an existing address for either Defendant. Plaintiff then obtained copies of the bankruptcy pleadings for Bertolini Trucking, Inc. to ascertain any possible address. In fact, even the bankruptcy Trustee, Mr. Aceituno, was contacted for any possible information regarding the current whereabouts of said Defendants. Despite Plaintiff's extensive efforts to determine the current location of BRIAN BERTOLINI and TIM VEDDER, plaintiff was unsuccessful. The only address Plaintiff could locate was the former address of Bertolini Trucking, Inc. at 3742 North Beale Road, Marysville, California. Since this was the only address Plaintiff could obtain, Plaintiff opted to attempt service at this address for both said Defendant, BRIAN BERTOLINI was successfully served at the Beale Road address but BRIAN BERTOLINI indicated that TIM VEDDER was not at that address. Plaintiff is under the understanding that TIM VEDDER is a long haul trucker and his current whereabouts are unknown. All of the Defendants with exception of TIM VEDDER have now been served.

Plaintiff has attempted to locate TIM VEDDER through various sources without any success during the extended service period. Thus, Plaintiff is requesting an additional ninety (90) days so that service can be made upon the Defendant, TIM VEDDER.

**II.
EXTENSION OF TIME FOR SERVICE SHOULD BE
GRANTED BECAUSE PLAINTIFF HAS SHOWN GOOD CAUSE**

NRCP 4(m) states as follows:

(m) Time Limit for Service. If a defendant is not served within 120 days after the complaint is filed, the court - on motion or on its own after notice to the plaintiff -

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RESPECTFULLY submitted this 30th day of November, 2012.

Attorney for Plaintiff

UNITED STATES MAGISTRATE JUDGE

DATED: December 4, 2012

AFFIDAVIT OF STEVEN F. BUS

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

I, STEVEN F. BUS, ESQ. do hereby swear upon the penalty of perjury that the assertions of this affidavit are true as follows:

1. I am an attorney licensed to practice law in the State of Nevada and am admitted to practice before this Court.

2. I am the attorney for the Plaintiff, CURTIS FIREBAUGH.

3. Within a few weeks after filing the Complaint, we began preparing the summonses to be issued by the Court.

4. While reviewing the documents in our possession, it became apparent that Plaintiff did not have a physical address for either Defendant BRIAN BERTOLINI or TIM VEDDER for service of process.

5. Given the fact that Plaintiff was aware that Bertolini Trucking, Inc. filed bankruptcy and Defendants had been employees of the company, Plaintiff obtained copies of various bankruptcy pleadings and documents to ascertain the physical address which were received sometime in early June.

6. After reviewing the documents, the only physical address that we discovered was 3742 N. Beale Road, Marysville, California 95901 which was the address for Bertolini Trucking, Inc. which is no longer in operation.

7. Soon thereafter, the Trustee, Mr. Aceituno, for the Bertolini Trucking, Inc. bankruptcy and BRIAN BERTOLINI was contacted by me who did not have any information regarding the whereabouts of the Defendants.

8. Plaintiff also conducted further searches, including on-line searches, to determine if there were any other physical address for the Defendants as it was presumed the Beale Road address would not be viable since it belonged to the trucking company which was no longer operational.

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9. Given Plaintiff exhausted his resources and was unable to locate any other physical address, Plaintiff opted to utilize the Beale Road address for service of process.

10. In early July, Plaintiff had the summonses issued and immediately proceeded forward with service.

11. On or about July 24, 2012, Proof of Service was received with regard to Mr. Bertolini at the Beale Road address and Proof of Non-Service to Mr. Vedder at the same address and it was noted by the process server that Mr. Bertolini advised him that Mr. Vedder could no longer be found at the Beale Road address.

12. As a result of the inability to serve Mr. Vedder at the only known address, Plaintiff requested an extension of time of ninety (90) days to complete service of process on Mr. Vedder which was granted by the Court.

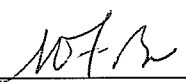
13. During the extended period, Plaintiff is still unable to determine a physical address for Mr. Vedder despite significant efforts, including the use of various search mechanisms.

14. Additionally, when contact has been made with those who knew or worked with Mr. Vedder, nor such persons appear to have any information on his current whereabouts.

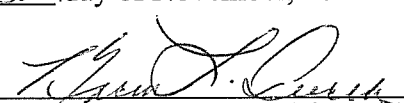
15. Thus, Plaintiff is seeking an additional ninety (90) days to serve Mr. Vedder.

16. That I have personal knowledge of, and I am competent to testify to, the foregoing matters.

DATED this 30th day of November, 2012.


STEVEN F. BUS, ESQ.

SUBSCRIBED AND SWORN to before me
this 30th day of November, 2012


NOTARY PUBLIC, In and for said County
and State

